

April 20, 2009

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email hearingexaminer@kingcounty.gov

REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0500415**

ALEKSANDRS NIKITINS
Code Enforcement Appeal

Location: 7910 Tolt River Road, Carnation

Appellant: **Aleksandrs Nikitins**
7910 Tolt River Road
Carnation, Washington 98014
Telephone: (425) 241-5498

King County: Department of Development and Environmental Services (DDes)
represented by **Brenda Wood**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7092
Facsimile: (206) 296-6604

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny the appeal
Department's Final Recommendation:	Deny the appeal
Examiner's Decision:	Deny the appeal; allow additional time to remove violations

ISSUES AND TOPICS ADDRESSED:

Violation of Stop Work Order; construction without permit; occupancy of unpermitted and sub-standard building; use in violation of zoning code; inoperable vehicles, junk and debris on property; maintaining health hazards and maintaining a public nuisance.

SUMMARY OF DECISION:

The property owner's appeal of a notice of code violation for construction and occupancy of a structure without permits, accumulation of inoperable vehicles and vehicle parts, parking and storage of vehicles

on unimproved surfaces, accumulation of rubbish and debris, and occupancy of a sub-standard dwelling is denied; additional time is granted to remove all violations.

EXAMINER PROCEEDINGS:

Hearing opened: April 7, 2009
Hearing closed: April 7, 2009

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On July 29, 2005, the King County Department of Development and Environmental Services (DDES) posted a Stop Work Order on the subject property for construction of a building without a permit, and ordered that the structure under construction be removed from the property. The property subject to the Stop Work Order is located at 7910 Tolt River Road in unincorporated King County. The property is owned by Aleksandrs Nikitins. The Stop Work Order and accompanying Notice of Violation of the King County Code were not appealed by the property owner.
2. On June 28, 2006, the building subject to the 2005 Stop Work Order remained on the premises. In addition, a motor home had been moved on to the site by the property owner. The Department of Development and Environmental Services then posted the building and motor home with notices, "Do Not Occupy". On that date, DDES also provided the property owner with another notice of violation, alleging occupancy of the previously posted shed, the presence of junk and debris on the site, including cars requiring repair, and directed that the property owner cease use of the shed except for farm use, cease the car repair and storage of vehicles on the property, and cease attempting to dig into a water system that serves neighboring properties.
3. On September 28, 2006, DDES sent an additional notice to the property owner, restating the violations previously alleged and advising the owner that to correct these violations, the following actions were necessary:
 - "1. Remove all non-agricultural items from the site.
 2. Remove all vehicles and vehicle parts from the site.
 3. Remove the motor home.
 4. Remove all junk, debris, garbage and appliances.
 5. There is no approved housing on this site, refrain from any overnight stays."
4. On July 25, 2007 another Stop Work Order was posted on the site by DDES. This Stop Work Order alleged placement of a waterline without permits, and required the property owner to "cease immediately".
5. On August 31, 2007, the King County Department of Development and Environmental Services issued a notice of King County Code violation, civil penalty order, abatement order, notice of lien, duty to notify ("Notice and Order") to Aleksandrs Nikitins. The property subject to the Notice and Order is the same property previously described, located at 7910 Tolt River Road

(Carnation) in unincorporated King County. Aleksandrs Nikitins remains the owner of the subject property.

The Notice and Order alleged violation of the King County Code for construction and occupancy of an unpermitted structure, accumulation of inoperable vehicles and vehicle parts, parking and storage of vehicles on unimproved surfaces, an accumulation of rubbish, salvage and debris on the property, and occupancy of a sub-standard dwelling (a motor home).

6. A timely appeal of this Notice and Order was filed by Aleksandrs Nikitins on September 10, 2007. The statement of appeal asserts that the unpermitted building constructed on the site is used for agricultural purposes; that the vehicles on the site do operate and are for sale (not stored); and that the appellant has done everything necessary to be in compliance with the King County Code, as requested by DDES.
7. The building constructed by the appellant on the subject property was built without a permit. The building is used as a workshop and for the storage of tools, hardware, building and other supplies and miscellaneous items. The building has no agricultural purpose or use.
8. The unpermitted shed described in finding no. 7 is supplied by electricity through an extension cord, which is plugged or wired into an unknown source. The building has no water supply or sanitation facilities.
9. The recreation vehicle on the site is not a lawful habitation. It is not supplied with electricity, water or sanitation. This recreation vehicle has been used as a residence on the site, creating a health hazard.
10. The appellant has removed the inoperable vehicles from the subject property, and has removed some of the junk and debris from the property. The unpermitted building described in finding no. 7 and the unpermitted recreation vehicle remain on the site. Substantial debris also remains on the property.

CONCLUSIONS:

1. The construction of the building on the subject property without a permit is in violation of the King County Code, as alleged in the Notice and Order. The use of that building as a workshop and for storage constitutes an “occupancy” in violation of the King County zoning code.
2. The occupancy of the recreation vehicle on the subject property constitutes the occupancy of a sub-standard residence, and is in violation of the King County Code as alleged in the Notice and Order. This occupancy of the recreation vehicle as a part-time residence on the site constitutes a threat to the public health and safety.
3. The supply of electricity to the unpermitted shed constitutes a violation of the King County zoning code, and is a hazard to the public health and safety. The presence on the site of unapproved methods for sanitation and disposal of human waste is a violation of the King County Code and constitutes a hazard to the public health.
4. The appellant has removed inoperable vehicles from the site, and has ceased the storage of inoperable vehicles (except for the inoperable recreation vehicle). The appellant has removed some junk and debris from the site, but remaining junk, salvage and debris are a continuing violation of the King County Code, and constitute a threat to the public health and safety.

5. The subject property remains in violation of the King County Code with respect to violations 1, 3 and 4 alleged in the August 31, 2007 Notice and Order. The subject property remains a hazard to the public health and safety, and constitutes a public nuisance.
6. The Appellant has substantially corrected violation no. 2 as alleged in the said order. A reasonable additional time should be allowed for the Appellant to remove the remaining code violations and complete the clean-up of the property.
7. A reasonable time to allow the appellant to correct all of the remaining violations of the King County Code is 45 days from the date of this decision. If the appellant fails to correct the remaining violations by demolishing and removing the unpermitted structure, removing all rubbish, salvage and debris, and removing the substandard dwelling (motor home/recreation vehicle) within the said time period, penalties should be assessed in the amounts set forth in the August 31, 2007 Notice and Order for violations nos. 1, 3 and 4, commencing on the date following the expiration of that time period for each of the said violations which has not been fully corrected. If all violations are not fully corrected, and the property put into a clean and sanitary condition, DDES may abate the remaining violations, including cleanup of the property, and charge the costs thereof in accordance with the authority of KCC 23.40.030 and RCW 35.80.030(1).

DECISION:

The appeal by Aleksandrs Nikitins of the August 31, 2007 Notice and Order is DENIED, and the appellant is granted until June 8, 2009, to complete the correction of all violations of the King County Code as set forth in the Notice and Order. In the event the appellant fails to do so, the penalties assessed in the Notice and Order for violations nos. 1, 3 and 4 shall accrue from June 9, 2009, unless the time is extended by DDES, in its sole discretion. DDES may then proceed to abate the remaining violations of the King County Code on the subject property.

ORDERED this 20th day of April, 2009.

James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within 21 days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE APRIL 7, 2009, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT
AND ENVIRONMENTAL SERVICES FILE NO. E0500415

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Brenda wood, representing the Department, and Aleksandrs Nikitins, the Appellant.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services (DDES) staff report to the Hearing Examiner for E0500415
Exhibit No. 2	Copy of the Notice & Order issued August 31, 2007
Exhibit No. 3	Copy of the Notice and Statement of Appeal received September 10, 2007
Exhibit No. 4	Copies of codes cited in the Notice & Order
Exhibit No. 5	Letter informing Appellant of complaints received by DDES, issued May 25, 2005
Exhibit No. 6	Copies of Stop Work Order (SWO) and Notice of Violation posted on the subject property on July 29, 2007
Exhibit No. 7	Copies of Do Not Occupy notices and Notice of Violation posted on the subject property on June 28, 2006
Exhibit No. 8	Letter to Appellant summarizing site visit and necessary steps to correct observed violations
Exhibit No. 9	SWO posted on the subject property on July 25, 2007
Exhibit No. 10	Printout of iMAP depicting location and layout of subject parcel
Exhibit No. 11	Copies of DDES case tracking entries for E0500415 from May 2005 through April 2009
Exhibit No. 12	Photographs of the subject property taken in July 2005
Exhibit No. 13	Photographs of the subject property taken in July 2009
Exhibit No. 14	Photographs of the subject property taken in July 2007
Exhibit No. 15	Photographs of the subject property taken prior to August 31, 2007
Exhibit No. 16	Photographs of the subject property taken prior to April 6, 2009
Exhibit No. 17	Definition of Agricultural, Building, Chapter 2 Definitions, Section 202, 2006 <i>International Building Code</i>

JNOC:gao
E0500415 RPT